

**BOARD OF SELECTMEN**  
**JUNE 17, 2013**

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**I. Call to Order/Roll Call**

Chairman Alex Vispoli reconvened the Regular meeting of the Board of Selectmen to order at 7:02 P.M. in the Selectmen's Conference Room at the Town Offices. Present – Roll call: Chairman Alex Vispoli-Y and Selectmen Brian Major-Y, Mary Lyman-Y, Dan Kowalski-Y, and Paul Salafia-Y. Also present: Town Manager Reginald S. Stapczynski and Town Clerk Larry Murphy. The meeting was duly posted and cable-cast live.

**II. Executive Session**

Chairman Vispoli called the Executive Session to order at 6:02 P.M. in the Board of Selectmen's Conference Room in the Town Offices. On a motion by Dan Kowalski, seconded by Paul Salafia, the Board voted 5-0 to enter into Executive Session to discuss collective bargaining and confidential communications with Town Counsel and Special Town Counsel for legal advice and to discuss litigation strategy which may have a detrimental effect on the Board's position if discussed in Open Session, and to return to Open Session. Roll Call: Chairman Vispoli-Y and Selectmen Dan Kowalski-Y, Brian Major-Y, Mary Lyman-Y, and Paul Salafia-Y. At 7:02 P.M. on a motion by Mary Lyman seconded by Dan Kowalski, the Board voted 4-0 to adjourn from Executive Session and move to Open Session, not to return to Executive Session. Roll call: Chairman Vispoli-Y and Selectmen Dan Kowalski-Y, Mary Lyman-Y and Paul Salafia-Y. Brian Major was not in the room at the time of adjournment.

**III. Opening Ceremonies**

Chairman Vispoli asked for a Moment of Silence remembering Margaret Pustell, followed by the Pledge of Allegiance. The Town Manager said Margaret Pustell was active in many Town initiatives particularly recycling, conservation, AVIS, and was also a member of the League of Women Voters. Both she and her husband, Robert, were instrumental in linking the trails across Town and both were advocates for conserving open space.

**IV. Communications/Announcements/Liaison Reports**

The Town Manager made the following announcements:

- ~ The DCS Summer Program Booklet is available online with many activities offered.
- ~ Caution should be used when traveling through Town as there are a lot of construction projects and road repairs in progress.

Town Clerk Larry Murphy reminded everyone that the Special Senate Election is next Tuesday, June 25<sup>th</sup> and the polls will be open from 7:00 A.M. to 8:00 P.M.

Mary Lyman recognized the Town pollworkers who worked diligently throughout the year to assist with the added elections and the Town Meeting as it has been a busy year.

**V. Citizens Petitions & Presentations**

Lawrence Johnson, 62 Abbott Street, appeared before the Board to express his objection to providing part-time Town workers with full health insurance benefits and inquired how many part-time workers this includes. Selectman Lyman reported that by law they have to provide health insurance benefits to these employees, however, the Board has written a letter to the Town's legislative group to investigate this.

**VI. Public Hearing 7:20 P.M.**

**A. All-Alcoholic Beverage License Violation – Andover Food, Inc., d/b/a Raagini Indian Bistro**

Pursuant to Massachusetts General Laws, Chapter 138, Sections 12, 23 and 64, the Board of Selectmen, as the Town's liquor licensing authority, conducted a public hearing to determine whether Andover Food, Inc., d/b/a Raagini Indian Bistro, 209 North Main Street, Andover, holder of an all-alcoholic beverage pouring license under Massachusetts General Laws, Chapter 138, Section 12, did serve a minor after hours in violation of the law. Chairman Vispoli said there would be no comments or questions from the public; the Board will consider the alleged violation brought forward by the Andover Police. Chairman Vispoli read Exhibit 2, the Notice of Hearing, which included the Andover Police Department incident report #2013000011075.

Town Clerk Larry Murphy noted there are four exhibits and that Attorney Defillippis representing Mr. Pabla is present and would like to be heard. Detective Reming was present and sworn in by the Town Clerk. Detective Reming read the contents of the incident report filed. Attorney Defillippis requested a motion on disposition and stipulate to all charges and motions presented.

Selectman Lyman stated that when the Manager, Mr. Pabla, came before the Board six months ago he was told that the Board has no tolerance for this type of activity and for Mr. Pabla to know the age of the person (17) is incredulous to her. Selectman Kowalski asked if they own any other restaurants and if there were any other infractions on record. Attorney Defillippis said they own seven other restaurants none of which have any violations or reported incidents. Mr. Pabla did not comment. Selectman Salafia stated that providing alcohol to a 17 year old after hours in which the Manager is in a relationship with and he being the person of authority is wrong on all levels. Chairman Vispoli asked if there are other minors employed at the restaurant. Mr. Pabla said there is one who is a friend of the family and works on Saturday nights.

Town Clerk Murphy outlined the steps for the Board: Motion 1: Basic findings which Mr. Pabla's counsel has stipulated to. Motion 2: Conclusion – to determine if a violation has or has not occurred. Motion 3 and 4 come from the Town's Alcohol Policy. Motion 5: Facts under the policy determine the penalty.

Motion 1: Subsidiary Findings of Fact – Selectman Major moved the Board find the following facts: 1. Andover Food, Inc., d/b/a/ Raagini Indian Bistro (hereinafter Raagini) is the holder of an all alcohol pouring license. The license was first issued on November 5<sup>th</sup> 2012 for 2012 and subsequently renewed for 2013 (Exhibit I). 2. At all times relevant hereto Jaspreet S. Pabla, also known as Jessi Pabla was manager of record (Exhibit 1). 3. Notice of this hearing was hand delivered to Raagini on May 31, 2013 (Exhibit 2). 4. Notice of this hearing was also published in the Andover Townsman, a newspaper of general circulation in the Town of Andover, on June 6, 2013 (Exhibit 3). 5. On May 9, 2013 Detective Reming of the Andover Police Department interviewed a 17 year old female former employee of Raagini in connection with another incident. The minor reported to Detective Reming that on or about March 21, 2013, after closing hours, the Manager, Jaspreet Pabla had served her an alcoholic beverage. Detective Reming spoke with Mr. Pabla who was cooperative and admitted to the violation (Exhibit 4). Selectman Kowalski seconded the motion and the Board voted 5-0 to approve.

Motion 2: Conclusion – Selectman Lyman moved that the Board find that based on all the credible evidence that the licensee, on or about March 21, 2013, after hours, did violate the terms and conditions of its all alcohol pouring license and the provisions of Massachusetts General Laws Chapter 138, Sections 12 & 34 in that its Manager, Jaspreet S. Pabla, did knowingly and intentionally serve one or more alcoholic beverages to a person under the age of 21. The motion was seconded by Selectman Salafia and voted 5-0 to approve.

Motion 3: Additional Findings of Fact – Pursuant to the Board of Town of Andover Alcoholic Beverages Licensing Policy – Selectman Salafia moved the Board find the following additional facts: 1. There have been no prior infractions since the license was first issued in November 2012. 2. The violation was knowing and intentional, in that the manager is culpable in knowingly and intentionally serving alcohol to a minor after hours and that the serving of a minor, particularly under the circumstances found by the Board, places the minor at risk. 3. Procedures to preclude further infractions: No new procedures or changes to preclude further infractions. 4. The Manager, Jaspreet S. Pabla, cooperated with the investigating officer. 5. The Town Manager recommended a two day suspension of the liquor licenses. The motion was seconded by Selectman Kowalski and voted 5-0 to approve.

Motion 4: Disposition – The Board discussed the disposition: Selectman Salafia finds the violation was knowing; and that a two day suspension of the liquor license seems light because the threshold the violation reached, it was too intentional to have just a letter of reprimand or a two-day liquor license suspension. Selectman Kowalski does not feel the Manager demonstrated good judgment nor has the restaurant made any efforts to address the issue and no effort has been made to give management responsibility to someone else. Chairman Vispoli feels they should consider additional days for suspension of the liquor license. Selectman Major said that as Manager, he is the person of authority and responsible for every employee and he took advantage of his authority. Mr. Major's first reaction is to

completely revoke the license and one week of loss of the liquor license as a base minimum punishment and suggested a one-month suspension of the liquor license and if there is a second violation the license would immediately be revoked. Selectman Lyman said she felt thirty days was too harsh and could hurt the business financially. The Board spent considerable time discussing the length of the liquor license suspension that would be appropriate for the violation.

Selectman Major moved that the Board find sufficient aggravating factors to wit: the knowing and intentional violation of the law on March 21, 2103 by the Manager which placed a minor at risk. Therefore, the Andover Board of Selectmen ordered the suspension of Raagini's All-Alcoholic Beverage License for a period of thirty (30) consecutive days beginning immediately upon the closure of any and all appeals. The motion was seconded by Selectman Kowalski and voted 4-1 to approve. Selectman Lyman voted in the negative opposing the length of the suspension.

The Chairman announced the matter completed.

## **VII. Regular Business of the Board**

### **A. Compensation Fund Transfers**

Finance Director Donna Walsh presented the FY-13 Compensation Fund transfers to cover the completion of labor contracts for the Board's approval.

Selectman Salafia motion the Board approve the sum of \$635,000 be transferred from the FY-2013 Compensation fund to the following Personal Services appropriations for retroactive contract and wage agreements and for anticipated contract and wage agreements as follows: Public Safety – \$266,900; General Government – \$170,000; Municipal Services – \$70,500; Library – \$35,000; Community/Youth/Elder Services – \$20,100; Water – \$55,000; and Sewer – \$17,500 for a total of \$635,000. The motion was seconded by Selectman Major and voted 5-0 to approve.

### **B. Andover Youth Center**

1. Youth Services Director Bill Fahey is requesting to increase the square footage of the Cormier Youth Center gymnasium by 400 sq. ft. (4') and to use funds from the Youth Services Gift Account (not tax dollars). Mr. Fahey distributed drawings of the gymnasium showing the increased space which would not change the existing parking or access or delay the DMS site improvement project. The grass area would be modified from 11' to 7 or 8', by taking away 4' of grass to gain the additional square footage for the gymnasium. The increase would improve cross court function, provide a safe buffer around the court, move bleachers from encroaching on cross court, create adequate space for spectators, and make the space more attractive to potential renters and community programs. The gift account funds are for the specific use for the Youth Center and does not need a Town Meeting vote. Selectman Major motioned to approve the request to increase the square footage of the

Cormier Youth Center gymnasium by four feet and to use funds for the Youth Services Gift Account. The motion was seconded by Paul Salafia and voted 5-0 to approve.

2. The Town Manager explained his request to use additional funds to designate and configure the Cormier Youth Center as an Emergency Heating/Cooling Center. The generator from the current Bancroft School is too small to use for the new school, it can be transferred to the Youth Center and is large enough to provide cooling and heating for the new Youth Center. It will cost \$25K-\$30K for installation costs which includes switches and a concrete pad and will provide an added facility beyond the Memorial Hall Library with heating/cooling capabilities for the community during emergencies.

### **VIII. Consent Agenda**

#### **A. Vehicle for Hire Licenses**

Selectman Major motioned to approve the request of Jeffrey Polanco, 2 Museum Square, Lawrence, d/b/a Town Transportation of Andover Corporation, 89 North Main Street, Suite 207, Andover, for a license to operate a Vehicle for Hire business at 89 North Main Street, Suite 207, Andover, with 30 vehicles. The licenses will be effective from the date of approval through April 30, 2014. The request has been reviewed and approved by the Town Clerk and Police Department subject to the conditions that no taxi or livery vehicles will be stored in Andover and that all other requirements of the Town are met prior to the issuance of the licenses. The motion was seconded by Selectman Lyman and voted 5-0 to approve.

#### **B. July 4<sup>th</sup> Celebration**

Selectman Kowalski motioned to approve the request of Scott Gibson, Andover Firefighters Relief Association, who is requesting permission to conduct the All-Town July 4<sup>th</sup> Celebration in The Park on Thursday, July 4, 2013 from 8:00 A.M. to Noon. He is requesting that Bartlet Street between Morton Street and Chestnut Street be closed from 8:00 A.M. to 9:30 A.M. for the formation of the Horribles Parade and the following streets be closed from 9:00 A.M. to 10:30 A.M. during the parade: Punchard Avenue, Main Street from the intersection of Punchard Avenue to Park Street, Park Street to Whittier Street, across Chestnut Street to Whittier Court. He is also requesting that barricades be placed in the parking lots the night before the event and "No Parking" and detour signs be posted on the affected streets by 8:00 A.M. on July 4<sup>th</sup>. The request has been reviewed and approved with conditions by the Police Department. The motion was seconded by Selectman Lyman and voted 5-0 to approve.

#### **C. Block Party**

Selectman Salafia motioned to approve the request of Katrin Schneck, 23 Alden Road, who is requesting permission to block off her street between nos. 18 and 23 on Saturday, June 22, 2013 from 2:00 P.M. to 6:00 P.M. for a neighborhood block party. The request has been reviewed and approved with conditions by the Police Department. The motion was seconded by Selectman Lyman and voted 5-0 to approve.

D. Appointments and Re-Appointments

Selectman Kowalski motioned that the following appointments by the Town Manager be approved:

DEPARTMENT	POSITION	RATE	EFF. DATE
<u>MEMORIAL HALL LIBRARY</u>			
Dean Baumeister	Coordinator of Library Systems (v. E. Sathan)	IE 24-8-2/\$82,767	7/1/13
<u>PLANT &amp; FACILITIES DEPARTMENT – Building Maintenance Division</u>			
Robert D. Beaulieu	Maintenance Electrician – Temp. (v. D. St. Jean)	W10-1/\$57,775	7/1/13
<u>COMMUNITY SERVICES</u>			
Alison Z. Page	Concession – PT	C2A/\$8.00/hr.	6/10/13
Anna Ryan	Office Assistant 2 – PT	C3B/\$9.00/hr.	6/3/13
Kate E. Metzemaekers	Rec Park Counselor – PT	C2A/\$8.00/hr.	6/10/13
Nicole L. Clark	Outer Limit Director – PT	C11A/\$15.00/hr.	6/10/13
Michael D. Calabro	Counselor – PT	C2A/\$8.00/hr.	6/3/13
Andrew P. Abrams	Golf Counselor – PT	C2A/\$8.00/hr.	6/10/13
Julia F. Alagero	Tennis Instructor – PT	C2A/\$8.00/hr.	6/3/13
Abigail Pustis	Counselor – PT	C2A/\$8.00/hr.	6/10/13
Candice R. Jodoin	Lifeguard – PT	C2A/\$8.00/hr.	6/17/13
Camille A. Fantini	Golf Counselor – PT	C2A/\$8.00/hr.	6/17/13
Rachel M. Annino	Golf Counselor – PT	C2A/\$8.00/hr.	6/10/13
<u>YOUTH SERVICES</u>			
Caleb Lynch	Counselor 3 – PT	C4C/\$10.00/hr.	6/24/13
John Moffitt	Counselor 3 – PT	C4C/\$10.00/hr.	6/24/13
Ryan Cooney	Counselor 3 – PT	C4C/\$10.00/hr.	6/24/13
Jonathan Quezada	Counselor 3 – PT	C4C/\$10.00/hr.	6/24/13
Colleen Shannon	Counselor 3 – PT	C4A/\$9.50/hr.	6/24/13
Adam Ladd	Counselor 2 – PT	C3A/\$8.75/hr.	6/24/13
Sam Kefferstan	Counselor 2 – PT	C3A/\$8.75/hr.	6/24/13
Alex Quinto	Counselor 1 – PT	C2C/\$8.50/hr.	6/24/13
Shayne Fitzgerald	Counselor 1 – PT	C2C/\$8.50/hr.	6/17/13
<u>CULTURAL COUNCIL – Term expires 6/30/16</u>			
Denise Johnson – v. L. Kirk			



CONSERVATION OVERSEERS – Terms expire 6/30/16

David C. Curreri – Bald Hill/Wood Hill  
Mark Baldwin – Pomps Pond  
Craig K. Liversidge – Pustell Reservation

INSPECTOR OF ANIMALS – Term expires 6/30/14

Wayne Nader – v. R. Lindsay

The motion was seconded by Selectman Major and voted 5-0 to approve.

On a motion by Selectman Kowalski and seconded by Selectman Major, the Board unanimously voted that the following non-compensated appointments presented by the Town Manager be approved as printed in the agenda.

BOARD OF ASSESSORS – Term expires 6/30/16

David A. Billard

AUDIT COMMITTEE – Term expires 6/30/16

Paul C. Dow, Jr.

BALLARDVALE HISTORIC DISTRICT COMMISSION – Term expires 6/30/16

Joanna L. Reck

CABLE ADVISORY COMMITTEE – Term expires 6/30/16

John B. Flynn

COMMISSION ON DISABILITY – Terms expire 6/30/16

Justin J. Coppola, Jr.                      Bernadette L. Lionetta  
Julie E. Pike

CONSERVATION COMMISSION – Terms expire 6/30/16

Jon M. Honea                                  Kevin J. Porter

COUNCIL ON AGING – Terms expire 6/30/16

Donald W. Robb                              Ann M. Grecoe  
Stuart C. McNeil                              Margaret V. O'Connor

CULTURAL COUNCIL – Terms expire 6/30/16

Leslie Seaton Malis                          Kathleen M. Dolan

DESIGN REVIEW BOARD – Terms expire 6/30/16

Anita M. Renton                              Ann E. Constantine

GREEN ADVISORY BOARD – Terms expires 6/30/16

Brian O. Salazar

Donald Michelinie

BOARD OF HEALTH – Term expires 6/30/16

Candace B. Martin

HOUSING PARTNERSHIP/FAIR HOUSING COMMITTEE – Terms expire 6/30/16

Ann T. Cobleigh

Vinod K. Bhandari

MEMORIAL HALL LIBRARY TRUSTEES – Term expires 6/30/16

Carolyn A. Fantini

PATRIOTIC HOLIDAY/STREET OF FLAGS COMMITTEE – Terms expire 6/30/14

Calvin A. Deyermund

Michael Burke

Michael B. Mansfield

John J. Lewis

Robert S. Hamilton

James F. Bedford

Susan W. Ratyna

Stephen H. Wallingford

R. Scott Parrish

Calvin G. Perry

Kevin P. Bibeau

Barbara H. Hillman

PLANNING BOARD – Terms expire 6/30/18

Vincent A. Chiozzi, Jr.

Lelani B. Loder

PRESERVATION COMMISSION – Terms expire 6/30/16

Leo M. Greene

Craig D. Gibson

Arnold W. Dyer, Jr.

RECYCLING COMMITTEE – Terms expire 6/30/16

Eleanor A. Storch

Alanna M. McKee

Donald H. Gottfried

Michael W. Elmer

SPRING GROVE CEMETERY TRUSTEES – Term expires 6/30/16

Sandra L. Dearborn

TOWLE FUND TRUSTEES – Term expires 6/30/16

Christopher S. Doherty

DIRECTOR OF EMERGENCY MANAGEMENT – Term expires 6/30/14

Police Chief Patrick Keefe – effective August 1, 2013

KEEPER OF THE LOCK-UP – Term expires 6/30/14

Police Chief Patrick Keefe – effective August 1, 2013

MBTA ADVISORY BOARD – Term expires 6/30/16

Katherine O'Neil



MERRIMACK VALLEY PLANNING COMMISSION – Term expires 6/30/14

Joan H. Duff

MERRIMACK VALLEY REGIONAL TRANSIT AUTHORITY – Term expires 6/30/14

Paul Materazzo

Lisa Schwarz – Alternate Representative

Jacki Byerley – Alternate Representative

VETERANS SERVICES AGENT – Term expires 6/30/13

Michael Burke

HOUSING TRUST FUND BOARD OF TRUSTEES – Terms expire 6/30/16

Linda A. O'Connell

Joan H. Duff

Carolyn Hall Finlay

Janice Burkholder

SCHOLARSHIP COMMITTEE – Terms expire 6/30/14

David J. Reilly

Dr. Eric Stubenhaus

Janis J. Hill

Philip J. Giguere

ZONING BOARD OF APPEALS – Term expire 6/30/16

Carol C. McDonough – Regular Member

**IX. Approval of Minutes from Previous Meetings**

On a motion by Selectman Lyman and seconded by Selectman Kowalski, the Board unanimously voted to approve the Special Meeting Minutes of May 28, 2013 as presented.

**X. Adjournment**

At 9:50 P.M. on a motion by Selectman Salafia and seconded by Selectman Major the Board unanimously voted to adjourn the Regular Meeting of June 17, 2013.

Respectfully submitted,

Dee DeLorenzo, Recorder

Documents: Compensation Fund Transfer Request from Finance Director  
Drawings of Cormier Youth Center Gymnasium with requested change  
Notice of Hearing from Town Clerk's Office regarding Raagini Indian Bistro and related Exhibits 1, 2, 3, and 4.